

Remarks

Claims 1, 3, 9, 11, 14-17, 20, 22, 30-40 and 42-47 are pending. Claim 40 has been amended herein. Support for this amendment can be found, for example, at page 16, line 12 – page 17, line 10 of the Specification. No new matter has been introduced by this amendment.

I. Rejection of Claims 15-17, 22, 40 and 42-44 Under 35 U.S.C. §103(a) As Being Obvious in view of U.S. Patent Number 6,536,041 to Knudson in view of U.S. Patent Number 6,546,421 to Wynblatt in further view of U.S. Patent Number 6,137,549 to Rasson and further in view of U.S. Patent Number 5,926,205 to Krause

Claims 15-17, 22, 40 and 42-44 were rejected under 35 U.S.C. §103(a) as being obvious in view of U.S. Patent Number 6,536,041 to Knudson (“Knudson”) in view of U.S. Patent Number 6,546,421 to Wynblatt (“Wynblatt”) in further view of U.S. Patent Number 6,137,549 to Rasson (“Rasson”) and further in view of U.S. Patent Number 5,926,205 to Krause (“Krause”).

Independent Claim 15

Claim 15 is directed to a method for creating a plurality of data streams associated with televised sporting events. Claim 15 recite, *inter alia*, wherein each of the first and second data streams are delivered to a client system according to priorities assigned to the respective first and second event-based content over first and second independent channels, the first independent channel corresponding to the first priority and the second independent channel corresponding to the second priority, and wherein the first and second data streams are simultaneously transmitted to the client system via the independent channels. Knudson, Wynblatt, Rasson and Krause, individually and/or in combination, fail to teach, suggest or make obvious these features.

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With respect to claim 15, the Final Office Action provides:

The Rasson et al. reference discloses a system and method for the prioritized delivery of data based at least upon the expiration time of the content of the data. In particular, the reference teaches "assigning ... priorities" or factors based on the expiration time/timeliness of particular content of the data (Col 6, Line 64 - Col 7, Line 14), and "delivering ... [information] to at least one client system .. , based on the [respective first, second, or third] priority level" (Col 8, Lines 8-42). Subsequently, "each of the first, second, and third priority levels corresponds to a respectively to a time at which the associated first, second, or third indicator is to be transmitted to said at least one client system" (ie. the first is sent at a first time, the second is sent at a second time after the first, etc.) (Col 8, Lines 23-42) as set forth above.

In analogous art, the Krause et al. reference discloses "wherein each of the first, second and third indicators [segments] and associated identifiers are delivered to the at least one client system [subscriber]" and "wherein the first, second and third indicators and associated identifiers are capable of being transmitted to the at least one client system simultaneously via the independent channels (separate channels) (col. 4, lines 24-27, col. 14, lines 27-48)". (Final Office Action at pages 5 and 6).

Applicant respectfully notes that Rasson discloses the feed generator(s) 52 taking data records from the highest priority feed generator queue 76, and then taking data records from other queues 76 in descending order of priority. Thus, Rasson teaches sending higher priority information before lower priority information, and does not disclose or suggest transmitting different priority information simultaneously.

Krause discloses that instead of transmitting an on-demand program (or segment thereof) from a single disk over a single channel, the program or segment thereof is

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divided into portions, and each portion is stored on a separate disk and then the portions from the disks are simultaneously transmitted on different channels. In other words, Krause teaches reducing transmit time or an “access interval” for the on-demand program by going from one disk and one channel, to multiple disks and multiple channels.

The Final Office Action relies upon Krause as teaching simultaneous transmission of different data. However, the simultaneously transmitted data of Krause does not have different priorities. For example, Krause discloses a method for providing television programs on-demand by dividing a program or video segment into portions, and storing each portion on a separate disk. (*See*, Krause, col. 14, lines 27-34). Then, the portions from the disks are simultaneously transmitted on different channels. (*See*, Krause, col. 14, lines 34-36). For example, a first portion of the program is sent from a first disk on a first channel, a second portion of the program is sent from a second disk on a second channel, and so forth. (*See*, Krause, col. 14, lines 42-47). However, the portions transmitted from the different disks don’t have different priorities. Accordingly, Krause does not disclose or suggest transmitting different priority information simultaneously.

With respect to the combination of Rasson with Krause, the Final Office Action provides:

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided segments transmitted over different channel as taught by Krause to the priority scheme of Rasson with Knudson et al, Marshall et al, Wynblatt et al, Gotwald to provide the user with the ability to receive the entire program in the amount of time of receiving a segment of it (col. 3, lines 22-37). (Final Office Action at page 6).

Applicant respectfully submits the proposed combination of Krause with Rasson changes the principle of operation of Rasson, and, is therefore improper. (*See*, MPEP § 2145

(III)). With respect to a proposed modification of a reference, MPEP 2143.01(VI) provides:

VI. THE PROPOSED MODIFICATION CANNOT
CHANGE THE PRINCIPLE OF OPERATION OF A
REFERENCE

If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims prima facie obvious. In re Ratti, 270 F.2d 810, 123 USPQ 349 (CCPA 1959) (Claims were directed to an oil seal comprising a bore engaging portion with outwardly biased resilient spring fingers inserted in a resilient sealing member. The primary reference relied upon in a rejection based on a combination of references disclosed an oil seal wherein the bore engaging portion was reinforced by a cylindrical sheet metal casing. Patentee taught the device required rigidity for operation, whereas the claimed invention required resiliency. The court reversed the rejection holding the "suggested combination of references would require a substantial reconstruction and redesign of the elements shown in [the primary reference] as well as a change in the basic principle under which the [primary reference] construction was designed to operate." 270 F.2d at 813, 123 USPQ at 352.).

Applicant respectfully notes that the principle operation of Rasson is to transmit a message from the highest priority queue. (Rasson, Fig. 5, reference characters 82 and 88). More specifically, "[t]he data records located by feed generator 52 are initially taken from the highest priority queue and are then taken from other queues in order of descending priority". (Rasson, col. 8, lines 34-37). In this manner, data is sequentially sent from the highest priority queues and then taken from order queues in order of descending priority.

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Modification of the priority queues of Rasson to a simultaneous transmission would change the basic principle under which Rasson was designed to operate. Accordingly, the proposed modification of Rasson with Krause as set forth in the Final Office Action is improper and fails to support a *prima facie* case of obviousness.

Knudsen and Wynblatt likewise fail to overcome these deficiencies of Krause and Rasson. Accordingly, the asserted combination fails to teach, suggest or make obvious wherein each of the first and second data streams are delivered to a client system according to priorities assigned to the respective first and second event-based content over first and second independent channels, the first independent channel corresponding to the first priority and the second independent channel corresponding to the second priority, and wherein the first and second data streams are simultaneously transmitted to the client system via the independent channels, as recited in claim 15.

Since claim 15 recites features not taught, suggested or made obvious by the references of record, claim 15 patentably distinguishes over the references of record and is in condition for allowance.

Independent claim 16

Claim 16 is directed to a television broadcast service providing dynamic information associated with a plurality of broadcast television programs concerning sporting events. Claim 16 recites, *inter alia*, wherein each of the first, second, third and fourth data feeds are delivered to the client system according to their respective priority levels over independent channels, wherein the first, second, third and fourth data feeds are transmitted to the client system simultaneously over the independent channels and each independent channel corresponds to a different one of the priority level of the real-time level, the priority level of the fast level, the priority level of the normal level, or the

priority level of the low level. Knudson, Wynblatt, Rasson and Krause, individually and/or in combination, fail to teach, suggest or make obvious these features.

As discussed above with respect to claim 15, the proposed modification of Rasson with Krause changes the principle of operation of Rasson, and, is therefore improper. (*See*, MPEP § 2145 (III) and MPEP 2143.01(VI)). Modification of the priority queues of Rasson to a simultaneous transmission would change the basic principle under which Rasson was designed to operate. Accordingly, the proposed modification of Rasson with Krause as set forth in the Final Office Action is improper and fails to support a *prima facie* case of obviousness.

Knudsen and Wynblatt likewise fail to overcome these deficiencies of Krause and Rasson. Accordingly, the asserted combination fails to teach, suggest or make obvious wherein each of the first, second, third and fourth data feeds are delivered to the client system according to their respective priority levels over independent channels, wherein the first, second, third and fourth data feeds are transmitted to the client system simultaneously over the independent channels and each independent channel corresponds to a different one of the priority level of the real-time level, the priority level of the fast level, the priority level of the normal level, or the priority level of the low level, as recited in claim 16.

Since claim 16 recites features not taught, suggested or made obvious by the references of record, claim 16 patentably distinguishes over the references of record and is in condition for allowance. Furthermore, dependent claims 17, 20, 22, 37-39 and 47 also patentably distinguish over the references of record and are in condition for allowance.

Independent claim 40

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Claim 40 is directed to a method for managing bandwidth in a system for displaying enhanced broadcast television content. As amended herein, claim 40 recites, *inter alia*:

a) receiving a plurality of data feeds in accordance with an associated priority level, a portion of each data feed having an associated event identifier, and each event identifier having an associated priority level wherein a first event identifier of a first data feed is assigned a real-time priority level based on a first content of the first data feed to enable the associated portion of the data feed to be received at a highest priority, and a second event identifier of a second data feed is assigned a priority level based on a second content of a second data feed, the second priority level being selected from a group consisting of: a fast priority level, a normal priority level, and a low priority level, where a portion of a data feed assigned a fast priority level is given more bandwidth in delivery than portions of data feeds assigned the normal priority level, where a portion of a data feed assigned a normal priority level is given more bandwidth in delivery than portions of data feeds assigned the low priority level, and

wherein each of the first and second data feeds are separately delivered to a client system according to the priority levels assigned to the respective first and second event identifiers, wherein the first and second data feeds are transmitted to the client system simultaneously.

Knudson, Wynblatt, Rasson and Krause, individually and/or in combination, fail to teach, suggest or make obvious these features.

As discussed above with respect to claim 15, the proposed modification of Rasson with Krause changes the principle of operation of Rasson, and, is therefore improper. (*See*, MPEP § 2145 (III) and MPEP 2143.01(VI)). Modification of the priority queues of Rasson to a simultaneous transmission would change the basic principle under which Rasson was designed to operate. Accordingly, the proposed modification of Rasson with

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Krause as set forth in the Final Office Action is improper and fails to support a *prima facie* case of obviousness.

Knudsen and Wynblatt likewise fail to overcome these deficiencies of Krause and Rasson. Accordingly, the asserted combination fails to teach, suggest or make obvious wherein each of the first and second data feeds are separately delivered to a client system according to the priority levels assigned to the respective first and second event identifiers, wherein the first and second data feeds are transmitted to the client system simultaneously, as recited in claim 40.

Continuing, the Final Office Action provides:

Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Knudson et al. to "receive a plurality of data feeds in accordance with an associated priority level, a portion of each data feed having an associated event identifier, and each event identifier having an associated priority level wherein a first event identifier of a first data feed is assigned a real-time priority level based on a first content of the first data feed to enable the associated portion of the data feed to be received at a highest priority, and a second event identifier of a second data feed is assigned a priority level based on a second content of a second data feed, the second priority level being selected from a group consisting of: a fast priority level, a normal priority level, and a low priority level, where a portion of a data feed assigned a fast priority level is given more precedence in delivery than portions of data feeds assigned the normal priority level, where a portion of a data feed assigned a normal priority level is given more precedence in delivery than portions of data feeds assigned the low priority level" for the purpose of providing an efficient/improved arrangement for the delivery of program guide data to set-top terminals (Rasson et al.: Col 1, Lines 38-63). (Final Office Action at pages 12 and 13).

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While Rasson discloses priority queues, Applicant respectfully submits that Rasson does not disclose allocation of bandwidth. Applicant respectfully submits Knudson, Wynblatt, Rasson and Krause, individually and/or in combination, fail to teach, suggest or make obvious where a portion of a data feed assigned a fast priority level is given more bandwidth in delivery than portions of data feeds assigned the normal priority level, where a portion of a data feed assigned a normal priority level is given more bandwidth in delivery than portions of data feeds assigned the low priority level, as recited in claim 40, as amended herein.

Since claim 40 recites features not taught, suggested or made obvious by the references of record, claim 40 patentably distinguishes over the references of record and is in condition for allowance. Furthermore, dependent claims 42-44 also patentably distinguish over the reference of record and are in condition for allowance.

II. Rejection of Claims 30-32 Under 35 U.S.C. §103(a) As Being Obvious Over Knudson in view of WO 00/333576 A1 to Ward in view of Wynblatt and further in view of Rasson and further in view of Krause

Claims 30-32 were rejected under 35 U.S.C. §103(a) as being obvious over Knudson in view of WO 00/333576 A1 to Ward (“Ward”) in view of Wynblatt and further in view of Rasson and further in view of Krause.

Independent claim 30

Claim 30 is directed to a method for delivering broadcast television programming related to sporting events and associated enhanced content. Claim 30 recites, *inter alia*, wherein each of the tunable alert and the second event identifier are delivered to the one or more client devices according to their respective priority levels separately over independent channels, wherein the tunable alert and the second event identifier are

transmitted to the one or more client devices simultaneously via the independent channels. Knudson, Ward, Wynblatt, Rasson and Krause, individually and/or in combination, do not teach, suggest or make obvious these features.

As discussed above with respect to claim 15, the proposed modification of Rasson with Krause changes the principle of operation of Rasson, and, is therefore improper. (*See*, MPEP § 2145 (III) and MPEP 2143.01(VI)). Modification of the priority queues of Rasson to a simultaneous transmission would change the basic principle under which Rasson was designed to operate. Accordingly, the proposed modification of Rasson with Krause as set forth in the Final Office Action is improper and fails to support a *prima facie* case of obviousness.

Knudsen, Ward and Wynblatt likewise fail to overcome these deficiencies of Krause and Rasson. Accordingly, the asserted combination fails to teach, suggest or make obvious wherein each of the tunable alert and the second event identifier are delivered to the one or more client devices according to their respective priority levels separately over independent channels, wherein the tunable alert and the second event identifier are transmitted to the one or more client devices simultaneously via the independent channels, as recited in claim 30.

Since claim 30 recites features not taught, suggested or made obvious by the references of record, claim 30 patentably distinguishes over the references of record and is in condition for allowance. Furthermore, dependent claims 31 and 32 also patentably distinguish over the reference of record and are in condition for allowance.

III. Rejection of Claim 37 Under 35 U.S.C. §103(a) As Being Obvious Over Knudson in view of Wynblatt in view of Rasson and further in view of Krause and in further view of Ward

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Claim 37 was rejected under 35 U.S.C. §103(a) as being obvious over Knudson in view of Wynblatt in view of Rasson and further in view of Krause and in further view of Ward. Applicant respectfully submits that Ward does not cure the deficiencies discussed with respect to independent claim 16 above. Further, claim 16 is a dependent claim and allowable based on dependency from allowable independent claim 16 as described above. Accordingly, Applicant respectfully requests that the rejection of claim 37 be withdrawn.

IV. Rejection of Claims 38 and 39 Under 35 U.S.C. §103(a) As Being Obvious Over Knudson in view of Wynblatt in view of Rasson and further in view of Krause and in further view of Ward and further in view of U.S. Published Application Number 2002/0010697 to Marshall

Claims 38 and 39 were rejected under 35 U.S.C. §103(a) as being obvious over Knudson in view of Wynblatt in view of Rasson and further in view of Krause and in further view of Ward and further in view of U.S. Published Application Number 2002/0010697 to Marshall (“Marshall”). Applicant respectfully submits that Ward and Marshall do not cure the deficiencies discussed with respect to independent claim 16 above. Further, claims 38 and 39 are dependent claims and are allowable based on their dependency from allowable independent claim 16 as described above. Accordingly, Applicant respectfully requests that the rejection of these claims be withdrawn.

V. Rejection of Claims 1-3, 14, 33, 34 and 36 Under 35 U.S.C. §103(a) As Being Obvious Over Knudson in view of Marshall in view of Wynblatt in view of Rasson and further in view of U.S. Patent Number 5,987,518 to Gotwald and further in view of Krause

Claims 1-3, 14, 33, 34 and 36 were rejected under 35 U.S.C. §103(a) As Being Obvious Over Knudson in view of Marshall in view of Wynblatt in view of Rasson and further in view of U.S. Patent Number 5,987,518 to Gotwald (“Gotwald”) and further in view of Krause.

Independent claim 1

Claim 1 is directed to a method for delivering enhanced broadcast television content. Claim 1 recites, *inter alia*, wherein each of the first, second and third indicators and associated identifiers are delivered to the at least one client system according to their respective priority levels over independent channels, each independent channel corresponding to a different one of the first, second or third priority levels, and wherein the first, second and third indicators and associated identifiers are transmitted to the at least one client system simultaneously via the independent channels. Knudson, Marshall, Wynblatt, Rasson, Gotwald and Krause, individually and/or in combination do not teach, suggest or make obvious these features.

As discussed above with respect to claim 15, the proposed modification of Rasson with Krause changes the principle of operation of Rasson, and, is therefore improper. (*See*, MPEP § 2145 (III) and MPEP 2143.01(VI)). Modification of the priority queues of Rasson to a simultaneous transmission would change the basic principle under which Rasson was designed to operate. Accordingly, the proposed modification of Rasson with Krause as set forth in the Final Office Action is improper and fails to support a *prima facie* case of obviousness.

Knudsen, Marshall, Wynblatt and Gotwald likewise fail to overcome these deficiencies of Krause and Rasson. Accordingly, the asserted combination fails to teach, suggest or make obvious wherein each of the tunable alert and the second event identifier are delivered to the one or more client devices according to their respective priority levels separately over independent channels, wherein the tunable alert and the second event identifier are transmitted to the one or more client devices simultaneously via the independent channels, as recited in claim 1.

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Since claim 1 recites features not taught, suggested or made obvious by the references of record, claim 1 patentably distinguishes over the references of record and is in condition for allowance. Furthermore, dependent claims 3, 9, 11, 14, 33-36, 45 and 46 also patentably distinguish over the references of record and are in condition for allowance.

VI. Rejection of Claims 9, 11, 20 and 45-47 Under 35 U.S.C. §103(a) As Being Obvious Over Knudson in view of Marshall in view of Wynblatt in view of Rasson and further in view of Gotwald and further in view of Krause and further in view of U.S. Patent Number 6,771,885 to Agnihotri

Claims 9, 11, 20 and 45-47 were rejected under 35 U.S.C. §103(a) as being obvious over Knudson in view of Marshall in view of Wynblatt in view of Rasson and further in view of Gotwald and further in view of Krause and further in view of U.S. Patent Number 6,771,885 to Agnihotri (“Agnihotri”). Applicant respectfully submits that Agnihotri does not cure the deficiencies discussed with respect to independent claims 1 and 16, above. Further, claims 9, 11, 20 and 45-47 are dependent claims and are allowable based on their dependency from allowable independent claims as described above. Accordingly, Applicant respectfully requests that the rejection of these claims be withdrawn.

Dependent claims 46 and 47

Claim 46 recites wherein said alert is configured to automatically invoke an action when delivered to the at least one client system, the action comprising commencing recording of a game when the game enters an overtime period. Claim 47 recites wherein the at least one alert notification is configured to automatically invoke an action when delivered to the client system, the action comprising commencing recording of a game when the game enters an extended period of play.

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Regarding these features, the Final Office Action provides:

Claims 45-47, Agnihotri teaches the action comprising extending the recording to include an overtime portion (beyond a preset period) of a sporting event (col. 5, lines 20-30). (Final Office Action at page 31).

Agnihotri discloses “a recording device may be directed to continue recording beyond a preset time period if a histogram of the video signal taken at or after the end of the present period indicates that it continues to have the characteristic associated with the desired program”. (Agnihotri, col. 5, lines 28-32). Applicant respectfully submits that Agnihotri does not disclose commencing recording of a game when the game enters an “overtime period” or an “extended period of play”, as recited in claims 46 and 47, respectively.

For at least this additional reason, claims 46 and 47 patentably distinguish over the references of record and are in condition for allowance.

VII. Rejection of Claim 35 Under 35 U.S.C. §103(a) As Being Obvious Over Knudson in view of Marshall in view of Wynblatt in view of Rasson and further in view of Gotwald and further in view of Ward

Claim 35 was rejected under 35 U.S.C. §103(a) as being obvious over Knudson in view of Marshall in view of Wynblatt in view of Rasson and further in view of Gotwald and further in view of Ward. Applicant respectfully submits that Ward does not cure the deficiencies discussed with respect to independent claim 1 above. Further, claim 35 is a dependent claim and allowable based on dependency from allowable independent claim 1 as described above. Accordingly, Applicant respectfully requests that the rejection of claim 35 be withdrawn.

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Conclusion

For the reasons set forth above, claims 1, 3, 9, 11, 14-17, 20, 22, 30-40 and 42-47 patentably and unobviously distinguish over the references and are allowable. An early allowance of all claims is earnestly solicited.

Respectfully submitted,

Date: January 20, 2010

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